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| 10/645,173 | 08/21/2003 | Donald E. Weder | 8403.949 | 7307 |

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| EXAMINER |
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GELLNER, JEFFREY L

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| ART UNIT | PAPER NUMBER |
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3643

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/645,173 | Applicant(s) WEDER, DONALD E. | |
| | Examiner Jeffrey L. Gellner | Art Unit 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 9, 19-34 and 42-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-18 and 35-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/28/04; 8/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

EA

DETAILED ACTION

Acknowledgement is made of Applicant's IDSs received 28 January 2004 and 10 August 2004.

Election/Restrictions

Applicant's election without traverse of Species A, Figs. 9 and 10, in the reply filed on 2 August 2005 is acknowledged. Claims 9, 19-34, and 42-48 are withdrawn. Examiner notes that the identifier for claim 48 should be changed to "withdrawn" in any response to this office action.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first edge of the extension is below . . . the first edge of the first sheet of material" of claim 1, lines 23-25, and claim 35, lines 24-26, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

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be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

In claim 1, lines 23-25, claim 35, lines 24-26, the "first edge of the extension is . . . substantially flush with the first edge of the first sheet of material" is not referenced in the specification, specifically at paragraphs 0060 to 0062.

Also, para. 0001 should be updated to show that 10/446,500, 10/350,957, and 10/135,334 have been abandoned.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1, 2, 4, 6, 7, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothfuss (US 2,302,259; document AN on Applicant's 1449 received 28 January 2004).

As to Claims 1 and 14, Rothfuss disclose a decorative wrapper (Fig. 9) comprising a sheet of material (33 of Fig. 9) having a first edge, second edge, first side, second side, an upper surface, a lower surface, and a width comprising the maximum distance between the first edge and the second edge (shown in Fig. 9); and an extension (34 of Fig. 9) constructed of a second sheet of material and having a first edge, a second edge, a first side, a second side, and a width comprising the maximum distance between the first edge of the extension and the second edge of the extension (shown in Fig. 9), and the extension having a decorative pattern or decorative effect (color of material as disclosed at page 3, col. 1, lines 43-49), and wherein the width of the extension is substantially less than the width of the sheet of material (Fig. 9), and wherein the extension comprises a facing portion which is superposed upon the upper surface of the sheet of material (Fig. 9); and wherein the extension is attached via a seal (18b of Fig. 9) to the upper surface of the first sheet of material along only a portion of the facing portion of the extension whereby a majority of the facing portion of the extension is left unattached to the upper surface of the sheet of material and wherein the first edge of the extension is completely unattached to the sheet of material (Fig. 9), and wherein the first edge of the extension is substantially flush with the first edge of the sheet of material and wherein the first edge of the extension is below or flush with the first edge of the sheet (Fig. 7), and wherein the sides of the first sheet of material and extension are aligned; and, the decorative wrapper is formed about an item, a flower pot (page 3, col. 1, lines 50-5), so as to form a decorative cover with a skirt (Fig. 9) and the edges of the extension and sheet giving the appearance of being constructed of two separate sheets of

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material. The decorative wrapper of Rothfuss inherently performs the method steps recited in claim 1.

As to claims 2 and 4, Rothfuss further discloses the first edge of the extension and sheet of material are straight (shown in Fig. 9).

As to claim 6, Rothfuss further discloses the extension being 35% of the sheet of material (as calculated by Examiner for Fig. 9).

As to claim 7, Rothfuss further discloses the seal being discrete areas (18b of Fig. 9).

As to claim 15, Rothfuss further discloses a floral grouping (shown for example in Fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothfuss (US 2,302,259; document AN on Applicant's 1449 received 28 January 2004).

As to claim 3 and 5, the limitations of claim 1 are disclosed and described above. Not disclosed is the first edge of the extension or sheet of material being non-linear. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the decorative wrapper of Rothfuss by having the extension or sheet of material being non-linear so as to change the aesthetic appeal of the wrapper so as to create interest among consumers.

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As to claims 16-18, the limitations of claim 1 are disclosed and described above. Not disclosed is the item a basket that is gift with bulbs. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the wrapper of Rothfuss by using a basket-type pot that contains flowers that are bulbs as a gift so as to have a use for the wrapper.

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothfuss (US 2,302,259; document AN on Applicant's 1449 received 28 January 2004) in view of Boehm (US 4,054,703).

As to claim 8, the limitations of claim 1 are disclosed and described above. Not disclosed is the seal being a strip extending substantially entirely between the sides of the sheet of material. Boehm, however, discloses a seal is a trip between sides for a sheet and extension (abstract, 20 and 22 of Fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the decorative wrapper of Rothfuss by using a strip as a seal as disclosed by Boehm so that the extension can be easily and quickly removed (see Boehm at abstract).

As to claim 11, Rothfuss as modified by Boehm further disclose the sheet of material being opaque (Fig. 9 of Rothfuss) and the seal being not visible (inherent when the seal of Boehm is used.).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rothfuss (US 2,302,259; document AN on Applicant's 1449 received 28 January 2004) in view of Woryna (CA 2,106,946).

As to claim 10, the limitations of claim 1 are disclosed and described above. Not disclosed is the decorative wrapper further having an adhesive bonding material disposed upon a portion thereof. Woryna, however, discloses an adhesive bonding material disposed on a decorative wrapper (generally around 30 and 32 of Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the decorative wrapper of Rothfuss by adding adhesive bonding material as disclosed by Woryna so as to add a bow so as to change the aesthetic appeal of the wrapper so as to create interest with consumers in the wrapper.

Claims 12, 13, 35, 36, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothfuss (US 2,302,259; document AN on Applicant's 1449 received 28 January 2004) in view of Sievers (US 1,868,853).

As to claims 12 and 13, the limitations of claim 1 are disclosed and described above. Not disclosed is securing the wrapper with a ribbon. Sievers, however, discloses a decorative wrapper with a ribbon (14 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the decorative wrapper of Rothfuss by adding a ribbon as disclosed by Sievers so as to add a bow so as to change the aesthetic appeal of the wrapper so as to create interest with consumers in the wrapper.

As to Claims 35, 36, and 41, Rothfuss disclose a decorative wrapper (Fig. 9) comprising a sheet of material (33 of Fig. 9) having a first edge, second edge, first side, second side, an upper surface, a lower surface, and a width comprising the maximum distance between the first edge and the second edge (shown in Fig. 9); and an extension (34 of Fig. 9) constructed of a second

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sheet of material and having a first edge, a second edge, a first side, a second side, and a width comprising the maximum distance between the first edge of the extension and the second edge of the extension (shown in Fig. 9), and the extension having a decorative pattern or decorative effect (color of material as disclosed at page 3, col. 1, lines 43-49), and wherein the width of the extension is substantially less than the width of the sheet of material (Fig. 9), and wherein the extension comprises a facing portion which is superposed upon the upper surface of the sheet of material (Fig. 9); and wherein the extension is attached via a seal (18b of Fig. 9) to the upper surface of the first sheet of material along only a portion of the facing portion of the extension whereby a majority of the facing portion of the extension is left unattached to the upper surface of the sheet of material and wherein the first edge of the extension is completely unattached to the sheet of material (Fig. 9), and wherein the first edge of the extension is substantially flush with the first edge of the sheet of material and wherein the first edge of the extension is below or flush with the first edge of the sheet (Fig. 7), and wherein the sides of the first sheet of material and extension are aligned; and, the decorative wrapper is formed about an item, a flower pot (page 3, col. 1, lines 50-5), so as to form a decorative cover with a skirt (Fig. 9) and the edges of the extension and sheet giving the appearance of being constructed of two separate sheets of material. Not disclosed is selling the wrapper to a seller and using a securing element with the wrapper and potted plant. Sievers, however, discloses a securing element, a ribbon (14 of Fig. 1) for wrapper with a potted plant. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Rothfuss by adding a securing ribbon as disclosed by Sievers so as to add a bow so as to change the aesthetic appeal of the wrapper so as to create interest with consumers in the wrapper and to sell the wrapper to sellers so as to make a profit.

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The decorative wrapper of Rothfuss inherently performs the method steps recited in claim 35.

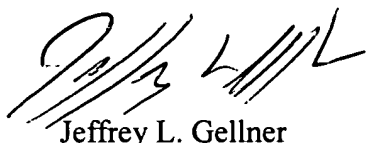
As to claim 37, Rothfuss further discloses a floral grouping (shown for example in Fig. 6).

As to claims 38-40, the limitations of claim 35 are disclosed and described above. Not disclosed is the item a basket that is gift with bulbs. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the wrapper of Rothfuss, as modified by Sievers, by using a basket-type pot that contains flowers that are bulbs as a gift so as to have a use for the wrapper.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey L. Gellner

Primary Examiner

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